

***United States Court of Appeals  
for the Second Circuit***



**APPENDIX**





# 76-1214

To be argued by  
DAVID J. GOTTLIEB

UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT

-----X  
:  
:  
UNITED STATES OF AMERICA, :  
:  
Plaintiff-Appellee, :  
:  
-against- :  
:  
RONALD ROBINSON, :  
:  
Defendant-Appellant. :  
:  
-----X

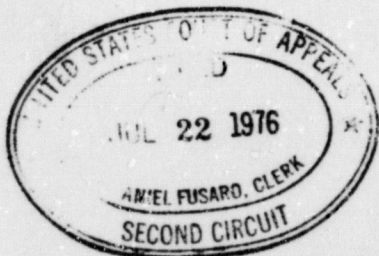
*Bp/s*  
Docket No. 76-1214

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APPENDIX TO APPELLANT'S BRIEF

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ON APPEAL FROM A JUDGMENT  
OF THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NEW YORK



WILLIAM J. GALLAGHER, ESQ.,  
THE LEGAL AID SOCIETY,  
Attorney for Appellant  
RONALD ROBINSON  
FEDERAL DEFENDER SERVICES UNIT  
509 United States Court House  
Foley Square  
New York, New York 10007  
(212) 732-2971

DAVID J. GOTTLIEB,  
Of Counsel.

APPEAL

JUDGE/ AGISTRATE 0711  
Assigned Trial  
Disp./Sentence

U. S. vs. ROBINSON, RONALD

Day, Mo. 11, 1975  
No. 2  
BA

Other Misdemeanor ☐

207 1  
District Office

75 CR 7831

defendant

Orders

CHARGES

U. S. CODE  
18-  
18-  
18-1.08

OFFENSES  
Conspiracy to do so  
Did forge payee on stolen Treas. Checks  
Theft of checks payable to others

Counts

MAG. CASE NO.

☐ Denied  
☐ AMT. Cond  
Set 1000  
\$ 100  
10/3/75  
Date  
☐ Bail Not  
Made  
☐ Bail Statu  
Changed  
(See Docket)

UNITED STATES COURT OF APPEALS  
FILED  
JUN 14 1976  
A. DANIEL FUSARO, CLERK  
SECOND CIRCUIT

U.S. Attorney or  
J. Marks

Defendant: CJA, X Ret; L. Waived, L. Sent  
M. Coiro  
118-18 Union Tpke  
Key Gardens, L.I. 261-3142

ATTORNEYS

II.  
KEY  
INTERVALS  
& DATES

ARREST

INDICTMENT

ARRAIGNMENT

TRIAL

10/8/75 or  
U.S. Custody  
Began on Above  
Charges

☐ High Risk  
Defn. &  
Date Design'd

10-23-75

Waived ☐

Superseding  
☐ Indict/Info ☐

1st Plea  
10-30-75

Final Plea

Trial Set For  
1-5-76

☒ Not Guilty  
☐ Nolo  
☐ Guilty  
☐ Not Guilty  
☐ Nolo  
☐ Guilty

Voir Dire ☐

Trial Begin ☐

1/3/76

Trial End ☐

1/12/76

Disposition

☐ Convicted

☐ Acquitted

☐ Dismissed

☐ Noted Dis

☐ Prosecution Deferred

III.  
MAGISTRATE

Search Warrant	Issued	DATE	INITIAL/No.	INITIAL APPEARANCE	INITIAL/No.	OUTCOME
	Return			PRELIMINARY EXAMINATION OR REMOVAL HEARING	Date Scheduled 10/21/75	<input type="checkbox"/> Dismissed <input type="checkbox"/> Held for District Ct
Summons	Issued			<input type="checkbox"/> Waived	Date Held	<input checked="" type="checkbox"/> Held to Answer to U. S. Dist
	Served			<input type="checkbox"/> Not Waived	Intervening Indictment	AT: EDNY.
Arrest Warrant		10/3/75	VAC /070A	Type No.	INITIAL/No.	Magistrate's Initials
COMPLAINT		10/8/75	MS/070B			
OFFENSE (In Complaint)				conspire, confederate and agree with others known and unk forge US Treasury Checks. T-10 USC Sections 495 and 471.		

\* Show last names and suffix numbers of other defendants on same indictment/information

BLACK Jr. 2

IV.  
MAGISTRATE  
& DISTRICT  
COURT  
DOCKET  
ENTRIES

DATE	PROCEEDINGS
10/3/75	AUSA - C.Schwartz
10/8/75	Bail application scheduled for October 10, 1975 at 3:00 PM
10-10-75	Bail \$100,000 Surety maintained - Defendant directed to submit handwriting exemplars. MS 070B - AUSA Marks.
10/21/75	Bail hearing scheduled for October 24, 1975 at 12:00 Noon at request of D.C. Salvatore Quagliata, Esq. (Ret) 118-18 Union Turnpike, NY 261-3142.
10-23-75	Before NEAHER, J - Indictment filed.
10-30-75	Petition for Writ of Habeas Corpus Ad Prosequendum filed
10-30-75	Writ Issued
10-30-75	Notice of Appearance filed.
10-30-75	Before BARTELS J - case called - deft present with atty- deft waives reading of the indictment and enters a plea of not guilty - defts motion for reduction of bail argued - decision reserved pending determination of defts assets. bail contd - trial set dem for 11-18-75.
11-18-75	Petition for Writ of Habeas Corpus Ad Prosequendum filed
11-18-75	Writ Issued
11-18-75	Before Bartels J - Case called - trial set for 1-5-76.
11-19-75	Govts Notice of Readiness for Trial filed.
11-20-75	WRits ret'd and filed - executed (two writs)
12/30/75	Before BARTELS, J.- Case called- deft and counsel present deft's motion for discovery granted-motion for reduction of

OPPOSITE THE APPLICABLE DOCKET ENTRIES IN SECTION IV SHOW, IN SECTION V, ANY OCCURRENCE OF EXCLUDABLE



IV. PROCEEDINGS (continued)

V. EXCLUDABLE DELAY

(a) (b) (c) (d)

LETTER CODES  
For Identifying  
Periods of Exclud-  
able Delay For 18  
U.S.C. 3161(h)

A. Examination or  
hearing for  
mental or  
physical in-  
capacity (18  
U.S.C. 424d)

B. NARA Exam-  
ination (28  
U.S.C. 2902)

C. State or Federal  
trial on other  
charges

D. Interlocutory  
Appeals

E. Hearing on  
pretrial motions

F. Transfers from  
other districts  
(per F.R.C.P.  
Rules 20, 21  
& 40)

G. Defendant in-  
tion is actually  
under advisement. Period of  
up to 30 days  
if exclusion is  
not requested

H. Miscellaneous  
Proceedings:  
Probation or  
Parole revoca-  
tion, Deportation,  
Extradition

I. Prosecution de-  
ferred by  
mutual agree-  
ment

M. Unavailability  
of defendant  
or essential  
witness

N. Period of men-  
tal or physical  
incompetence  
of defendant to  
stand trial

O. Period of  
NARA Commit-  
ment or  
Treatment

P. Superseding  
indictment  
and/or new  
charges

R. Defendant  
awaiting trial  
of Co-defen-  
dant with no  
severance has  
been granted

T. Continuances  
Granted per  
3161(h)(3)  
(i.e. ends of  
justice or com-  
plexity of case  
outweighs de-  
fendants' interests)

U. Time between  
guilty plea and  
plea with-  
drawal

V. Time while  
moving prisoner  
from state institu-  
tions per  
transfer  
detainer pro-  
cedure

W. Grand Jury In-  
dictment ex-  
tended per  
3161 (g)

Y. Any delay ex-  
cluded by court  
order for reasons  
not included  
above

76 bail argued- denied  
Before BARTELS J - case called - deft & atty Michael Coiro  
present - Jurors selected and sworn - Defts motion for reduction  
of bail - court rules that bail remain set at \$50,000 bond surety or  
secured by property- Trial contd to Jan. 6, 1976.

6 Before BARTELS J - case called - deft & atty Michael Coiro  
present - trial resumed - Defts motion for withdrawal of a Juror  
and declaration of a mistrial is denied - Trial contd to Jan. 7, 1976.

76 Before BARTELS J - case called - deft & counsel present - trial  
resumed - Trial contd to Jan. 8, 1976.

76 Before BARTELS J - case called - deft & counsel present - Trial  
resumed - Trial contd to Jan. 12, 1976.

76 Before BARTELS J - case called - deft & counsel present -  
trial resumed - Jury retires at 4:15 PM for deliberations -  
Jury returns at 9:25 PM with a verdict of guilty to counts 1  
through 7 and counts 10 through 17; not guilty on counts 8 & 9.  
Jury is discharged - trial concluded - defts motion to set aside  
verdict is denied - Govts motion to remand deft without bail  
denied - court raises bail to \$100,000.00 Sentence adjd without date.

By BARTELS J - Three (3) orders of sustenance filed. (Lunch & Dinner)  
and transportation.

76 Before BARTELS, J - case called - deft & atty M. Coiro  
present - deft sentenced for 10 years on count 2; 10 years on  
count 4; 10 years on count 6; 10 years on count 10; 10 years  
on count 12; 10 years on count 14, 10 years on count 16, to  
run concurrently with each other for a total of 10 years  
imprisonment; deft is sentenced to 5 years on count 1;  
5 years on count 3, 5 years on count 5 and for 5 years on  
count 7; 5 years on count 11; 5 years on count 13; 5 years  
on count 15; 5 years on count 17, to run concurrently with  
each other for a total of 5 years imprisonment but consecutive  
to the sentence imposed on counts 2, 4, 6, 10, 12, 14 & 16 making  
a total of 15 years imprisonment - both sentences imposed  
are pursuant to E-18, U.S.C. Sec. 4208(a)(2).

-76 Judgment and Commitment filed - certified copies  
to Marshal.

76 Certified copy of Judgment and commitment ret'd and  
filed- copies to MCC

76 Notice of Appeal filed (no fee)

76 Docket entries and duplicate of Notice of Appeal  
mailed to the Court of Appeals.

-76 Copy of order received from court of appeals and  
filed that record be docketed on or before 6/15/76

-6 Record on appeal certified and handed to Joan Gill  
for delivery to court of appeals

A TRUE COPY  
DATED 6/14/76  
BY [Signature]  
DEPUTY CLERK

Interval (per Section II) Start Date End Date Ltr. Total Code Days

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

75 CR 783

----- X

UNITED STATES OF AMERICA

INDICTMENT

- against -

RONALD ROBINSON and  
JAMES BLACK, JR.,

Defendants.

Cr. No.

(T. 18 U.S.C., §371

T. 18 U.S.C., §§495 and 2

T. 18 U.S.C., §§1708 and 2)

U.S. DISTRICT COURT, E.D. NY

OCT 23 1975

----- X  
THE GRAND JURY CHARGES:

THE AM.....

PM.....

COUNT ONE

1. On or about and between the 1st day of April 1974 and the 31st day of August 1974, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendants RONALD ROBINSON and JAMES BLACK, JR. did combine, conspire, confederate and agree to gather and with others known and unknown to the Grand Jury to steal from the mails numerous United States Treasury Checks, and to forge the endorsements of the payees on the said stolen checks and to utter and publish as true the said forged checks for the purpose of obtaining and receiving sums of money from the United States, in violation of Sections 495 and 1708 of Title 18, United States Code.

2. It was part of the conspiracy that the defendants RONALD ROBINSON and JAMES BLACK, JR. would open and cause to be opened bank accounts for the purpose of negotiating stolen United States Treasury and New York City Department of Social Services Checks.

3. It was further a part of the conspiracy that the defendants RONALD ROBINSON and JAMES BLACK, JR. would purchase stolen United States Treasury checks from others at a substantial discount from their face value.



4. It was further a part of the conspiracy that the defendants RONALD ROBINSON and JAMES BLACK, JR. would deposit and cause to be deposited in the aforementioned bank accounts stolen United States Treasury checks in the aggregate sum of approximately Seven Thousand Dollars (\$7,000.00).

5. It was further a part of the conspiracy that the defendants RONALD ROBINSON and JAMES BLACK, JR. would make and cause to be made withdrawals from the aforementioned bank accounts representing the proceeds of the said stolen checks.

In furtherance of the aforesaid conspiracy and to effect the objects thereof the defendants RONALD ROBINSON and JAMES BLACK, JR., within the Eastern District of New York, did commit, among others, the following:

O V E R T   A C T S

1. On or about April 19, 1974, the defendants opened an account in the name of New York Blvd. Deli at Marine Midland Bank, 89-60 163rd Street, Jamaica, New York.

2. On or about May 29, 1974, the defendants opened an account in the name of New York Blvd. Deli at National Bank of North America, 205-02 Linden Boulevard, St. Albans, New York.

3. On or about July 8, 1974, the defendants opened an account in the name of Sutphin Blvd. Deli at Marine Midland Bank, 119-20 Sutphin Boulevard, Jamaica, New York.  
(Title 18, United States Code, §371).

COUNT TWO

On or about the 1st day of August, 1974, within the Eastern District of New York, the defendants RONALD ROBINSON and JAMES BLACK, JR., with intent to defraud the United States, did utter and publish as true United States Treasury Check No. 53,126,008 dated July 26, 1974, in the sum of Two Thousand Nine Hundred Ninety Five Dollars (\$2,995.00), payable to Thony Terranova, upon which the name of the payee had been forged, knowing the payee's name to be forged. (Title 18, United States Code, §495 and §2).

COUNT THREE

On or about the 1st day of August, 1974, within the Eastern District of New York, the defendants RONALD ROBINSON and JAMES BLACK, JR., did unlawfully have in their possession a United States Treasury Check in the sum of Two Thousand Nine Hundred Ninety Five Dollars (\$2,995.00), made payable to Thony Terranova which was the contents of a letter stolen from the United States Mail, the defendants knowing the same to have been stolen. (Title 18, United States Code, §1708 and §2).

COUNT FOUR

On or about the 1st day of May, 1974, within the Eastern District of New York, the defendants RONALD ROBINSON and JAMES BLACK, JR., with intent to defraud the United States, did utter and publish as true United States Treasury Check No. 43,862,546 dated May 24, 1974, in the sum of One Thousand Two Hundred Twenty Seven Dollars and Twenty-two Cents (\$1,227.22), payable to Mario and Ramona Colon, upon which the name of the payee had been forged, knowing the payee's name to be forged. (Title 18, United States Code, §495 and §2).



COUNT FIVE

On or about the 1st day of May, 1974, within the Eastern District of New York, the defendants RONALD ROBINSON and JAMES BLACK, JR., did unlawfully have in their possession a United States Treasury Check in the sum of One Thousand Two Hundred Twenty Seven Dollars and Twenty-two Cents (\$1,227.22), made payable to Mario and Ramona Colon which was the contents of a letter stolen from the United States Mail, the defendants knowing the same to have been stolen. (Title 18, United States Code, §1708 and §2).

COUNT SIX

On or about the 1st day of June, 1974, within the Eastern District of New York, the defendants RONALD ROBINSON and JAMES BLACK, JR., with intent to defraud the United States, did utter and publish as true United States Treasury Check No. 61,878,346 dated June 1, 1974, in the sum of Two Hundred Six Dollars and Eighty-five Cents (\$206.85), payable to Lillene Claxton, upon which the name of the payee had been forged, knowing the payee's name to be forged. (Title 18, United States Code, §495 and §2).

COUNT SEVEN

On or about the 1st day of June, 1974, within the Eastern District of New York, the defendants RONALD ROBINSON and JAMES BLACK, JR., did unlawfully have in their possession a United States Treasury Check in the sum of Two Hundred Six Dollars and Eighty-five Cents (\$206.85), made payable to Lillene Claxton which was the contents of a letter stolen from the United States Mail, the defendants knowing the same to have been stolen. (Title 18, United States Code, §1708 and §2).

COUNT EIGHT

On or about the 1st day of July, 1974, within the Eastern District of New York, the defendants RONALD ROBINSON and JAMES BLACK, JR., with intent to defraud the United States, did utter and publish as true United States Treasury Check No. 62,749,577 dated July 1, 1974, in the sum of Two Hundred Six Dollars and Eighty-five Cents (\$206.85), payable to Clinton Maxwell, upon which the name of the payee had been forged, knowing the payee's name to be forged. (Title 18, United States Code, §495 and §2).

COUNT NINE

On or about the 1st day of July, 1974, within the Eastern District of New York, the defendants RONALD ROBINSON and JAMES BLACK, JR., did unlawfully have in their possession a United States Treasury Check in the sum of Two Hundred Six Dollars and Eighty-five Cents (\$206.85), made payable to Clinton Maxwell which was the contents of a letter stolen from the United States Mail, the defendants knowing the same to have been stolen. (Title 18, United States Code, §1708 and §2).

COUNT TEN

On or about the 1st day of June, 1974, within the Eastern District of New York, the defendants RONALD ROBINSON and JAMES BLACK, JR., with intent to defraud the United States, did utter and publish as true United States Treasury Check No. 61,884,644 dated June 1, 1974, in the sum of Two Hundred Fifty Six Dollars and Forty Cents (\$256.40), payable to Philip Stallworth, upon which the name of the payee had been forged, knowing the payee's name to be forged. (Title 18, United States Code, §495 and §2).



- 6 -

COUNT ELEVEN

On or about the 1st day of June, 1974, within the Eastern District of New York, the defendants RONALD ROBINSON and JAMES BLACK, JR., did unlawfully have in their possession a United States Treasury Check in the sum of Two Hundred Fifty Six Dollars and Forty Cents (\$256.40), made payable to Philip Stallworth which was the contents of a letter stolen from the United States Mail, the defendants knowing the same to have been stolen. (Title 18, United States Code, §1708 and §2).

COUNT TWELVE

On or about the 1st day of June, 1974, within the Eastern District of New York, the defendants RONALD ROBINSON and JAMES BLACK, JR., with intent to defraud the United States, did utter and publish as true United States Treasury Check No. 67,499,617 dated June 3, 1974, in the sum of Two Hundred Nine Dollars and Fifty Cents (\$209.50), payable to Theresa Venditti, upon which the name of the payee had been forged, knowing the payee's name to be forged. (Title 18, United States Code, §495 and §2).

COUNT THIRTEEN

On or about the 1st day of June, 1974, within the Eastern District of New York, the defendants RONALD ROBINSON and JAMES BLACK, JR., did unlawfully have in their possession a United States Treasury Check in the sum of Two Hundred Nine Dollars and Fifty Cents (\$209.50), made payable to Theresa Venditti which was the contents of a letter stolen from the United States Mail, the defendants knowing the same to have been stolen. (Title 18, United States Code, §1708 and §2).

COUNT FOURTEEN

On or about the 1st day of May, 1974, within the Eastern District of New York, the defendants RONALD ROBINSON and JAMES BLACK, JR., with intent to defraud the United States, did utter and publish as true United States Treasury Check No. 61,268,535 dated May 1, 1974, in the sum of Two Hundred Forty Four Dollars (\$244.00), payable to Dorothy Berry, upon which the name of the payee had been forged, knowing the payee's name to be forged. (Title 18, United States Code, §495 and §2).

COUNT FIFTEEN

On or about the 1st day of May, 1974, within the Eastern District of New York, the defendants RONALD ROBINSON and JAMES BLACK, JR., did unlawfully have in their possession a United States Treasury Check in the sum of Two Hundred Forty Four Dollars (\$244.00), made payable to Dorothy Berry which was the contents of a letter stolen from the United States Mail, the defendants knowing the same to have been stolen. (Title 18, United States Code, §1708 and §2).

COUNT SIXTEEN

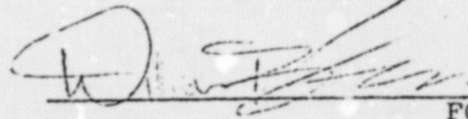
On or about the 1st day of June, 1974, within the Eastern District of New York, the defendants RONALD ROBINSON and JAMES BLACK, JR., with intent to defraud the United States, did utter and publish as true United States Treasury Check No. 24,280,103 dated June 1, 1974, in the sum of One Hundred Ninety Eight Dollars (\$198.00), payable to Frieda R. Stringham, upon which the name of the payee had been forged, knowing the payee's name to be forged. (Title 18, United States Code, §495 and §2).



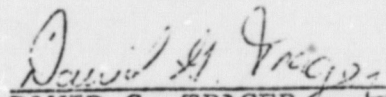
COUNT SEVENTEEN

On or about the 1st day of June, 1974, within the Eastern District of New York, the defendants RONALD ROBINSON and JAMES BLACK, JR., did unlawfully have in their possession a United States Treasury Check in the sum of One Hundred Ninety Eight Dollars (\$198.00), payable to Frieda R. Stringham which was the contents of a letter stolen from the United States Mail, the defendants knowing the same to have been stolen. (Title 18, United States Code, §1708 and §2).

A TRUE BILL



FOREMAN

  
\_\_\_\_\_  
DAVID G. TRAGER  
UNITED STATES ATTORNEY  
EASTERN DISTRICT OF NEW YORK



PAGINATION AS IN ORIGINAL COPY



( A F T E R N O O N   S E S S I O N )

(Jury enters jury box.)

THE COURT: Very well, ladies and gentlemen.

You have listened very attentively to the testimony and to the summations. As you know, the testimony presented the facts of the witnesses and the exhibits that were introduced into evidence.

The summations presented the arguments of the attorneys, pro and con, concerning those facts.

Now the time has come for you and for me to perform our respective functions in the trial of this case.

You have been very patient and you have heard the voices of the attorneys and the Court and now your voice will be heard.

At the beginning, I wish to extend to you my deep appreciation for your attentiveness and your alertness during the course of the trial, and particularly to express my gratitude for the sacrifice each and every one of you has made in neglecting your business and your personal affairs to see that the ends of justice might be accomplished in this case. You have been most tolerant indeed of the unavoidable delays during the trial and at the

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opening of the trial from day-to-day. I noticed that you were very interested in your task of seeing that justice may be achieved in this case.

Now every criminal prosecution is important; very important to the Government of the United States and every criminal prosecution is important, very important to the defendant on trial. Each is entitled to equal justice at your hands.

From my experience, justice is best dispensed in a calm, patient, careful and deliberate manner. Now I sincerely request that you keep this attitude in your deliberations when you return to your jury room.

Of course, you should always respect the viewpoint of your fellow jurors. You should talk to each other with consideration and intelligence and you should decide the issues in the case on the merits and on the merits alone. You must not sacrifice your own conscientious belief, but on the other hand, you mustn't be stubborn for the sake of being stubborn. We're not here for that purpose. We are here to see that you exercise your conscience to see that justice is done here

Now, you heard the evidence and the arguments



Charge

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of counsel and it now becomes my duty to give you the law governing this case and it is equally your duty to accept the law as it is given to you by the Court and to determine the facts of the case for yourselves and it is the proper application of the law of the case to the facts of the case, as you will find those facts to be, that will determine your verdict.

I wish to make it very plain to you that the sole responsibility and the sole power in determining the facts rests with you. Anything I may seem to say or actually say as to indicate any view or opinion as to the facts is to be completely ignored by you.

In determining the facts, of course you should not be influenced by any rulings that the Court may have made during the trial. Those rulings dealt with matters of law. They did not deal with questions of fact.

The Court's ruling on an objection made by either of the attorneys and any questions which the Court posed to any witness as I indicated to you at the beginning, are not to be considered by you as indicating that the Court has any opinion as to

2 the guilt or the innocence of this defendant. The  
3 same is true with respect to any inflection of  
4 the Court's voice relative to any such rulings, or  
5 in connection with any comments or statements which  
6 the Court may have made to either of these attorneys.

7 The Court expresses no opinion as to the  
8 guilt or the innocence of this defendant. The  
9 determination of such guilt or innocence is a  
10 matter which is going to rest exclusively with you.

11 There are some general principles of law which  
12 have importance in every criminal case, and I wish,  
13 first, to make some statements which apply to  
14 criminal cases in general; after which I shall en-  
15 deavor to make clear to you what principles of law  
16 apply in addition to this particular case.

17 Now it is an established principle that an  
18 indictment is but a formal method of accusing a  
19 defendant of a crime. An indictment is not evidence  
20 of any kind against the accused and it does not  
21 create any presumption or merit any inference of  
22 guilt against this defendant.

23 It is also a principle which is well recognized  
24 in law that every person who is charged with a  
25 commission of a crime is presumed to be innocent and



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2 the burden rests on the Government to prove to  
3 your satisfaction beyond a reasonable doubt every  
4 element of the crime and that the defendant is guilty  
5 as charged. This presumption of innocence remains  
6 with the defendant all through the case until, if  
7 ever, it is overborne by proof which satisfies you  
8 beyond any reasonable doubt that the presumption of  
9 innocence no longer remains with the defendant.

10 We come to the term "reasonable doubt." The  
11 term "reasonable doubt" as used in this charge does  
12 not mean just any possible doubt you might have,  
13 but it means such reasonable doubt as a careful,  
14 prudent and reasonable man or woman ought to enter-  
15 tain in the circumstances proved. It means a doubt  
16 based on reason and which is reasonable in view of  
17 all the evidence. The key word is "reasonable."

18 Now, a reasonable doubt may arise from the  
19 evidence produced or from the lack of evidence  
20 in the case. It is the obligation of the Government  
21 to prove a defendant guilty beyond a reasonable doubt  
22 but it is not required to prove a defendant guilty  
23 beyond a shadow of a doubt, or any possible doubt  
24 which is in the same category.

25 It is rarely possible to prove anything to

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an absolute certainty or beyond all possible doubt. Seldom one can prove a controversial fact with mathematical certainty. A reasonable doubt does not mean a vain, fanciful, vague or whimsical or imaginary doubt, nor does it mean a possible doubt created by a reluctance on the part of the jury to perform an unpleasant task. It means a doubt arising out of the evidence or lack of evidence which is a reasonable doubt. A reasonable doubt is a doubt that would cause prudent men to hesitate to act in matters of importance to themselves.

If after a fair and impartial consideration of all the evidence or the lack of evidence you have a reasonable doubt as to this defendant's guilt, then it is your duty to acquit him. On the other hand, if after a fair and impartial consideration of all of the evidence you conclude that you have no doubt, that is reasonable, as to this defendant's guilt, then it is your duty to convict him.

One is said to be convinced in a case of this kind beyond a reasonable doubt when, after an impartial comparison and consideration of all the evidence, one can consciously say that he is convinced to a moral certainty of the truth of the charge.



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If there is a reasonable doubt in your minds about the guilt of this defendant on the charges in the indictment or any of the charges in the indictment, he is entitled to the benefit of that reasonable doubt and to an acquittal on those charges, with respect to the charges you have a reasonable doubt.

If, on the other hand, you think the defendant's guilt is clear beyond a reasonable doubt, then you must find him guilty as charged. This is true with respect to each and every count in the indictment.

Thus, you look at all the evidence introduced into this case and you ask yourselves whether or not you are satisfied beyond a reasonable doubt that the offenses have been committed as charged in the indictment. If you are so satisfied, then it will be your plain duty to convict the defendant of the charges for which he has been indicted. But if there exists in your minds a reasonable doubt of this defendant's guilty, then you must give this defendant the benefit of that doubt and acquit him on the charges with respect to which you have a reasonable doubt,

If there are two reasonable conclusions equally

1 supported by the evidence, one of which is con-  
2 sistent with the guilt of a defendant and the other  
3 consistent with the innocence of the defendant,  
4 then you must adopt that conclusion which is con-  
5 sistent with his innocence and acquit him.

6 I refer in that case to two reasonable  
7 conclusions.

8 The question of reasonable doubt is one  
9 which can be determined only by you. In reaching  
10 a conclusion with respect to a reasonable doubt  
11 you must consider all of the evidence together, not  
12 just a particular segment or portion of the evidence  
13 isolated from the rest of the evidence.

14 The machinery of trial calls for the exercise  
15 of varying functions by counsel and by the witnesses  
16 whom you have heard, but the Court presides, and by  
17 the jury. You, as the jury, exercise the fact  
18 finding function. What do the facts show.

19 As you have been told, you are the sole  
20 judges of the facts. That is to say it is you who  
21 must consider all the evidence and the testimony  
22 and you weigh that evidence and that testimony and  
23 you draw inferences from the evidence, but only  
24 from the evidence.  
25



1  
2 Now you must be careful to distinguish  
3 between mere argument of counsel which have been  
4 made before you and the actual evidence upon which  
5 those arguments rest.

6 Now, the repetition of an argument, however  
7 often and however loudly or dramatically it is made,  
8 does not constitute evidence. You must carefully  
9 analyze the assertions made to you by both counsel  
10 and you ascertain what basis those assertions have  
11 in the evidence.

12 Now this brings us directly to the charges  
13 in the indictment itself.

14 The indictment, which, as you have been told,  
15 is not evidence in this case, charges the defendant  
16 Ronald Robinson with seventeen offenses. While I  
17 read this indictment once before to you at the  
18 beginning of the trial, I think it is necessary for  
19 your understanding that I read it again.

20 Count one says, "That on or about and between  
21 the first day of April, 1974, and the 31st day of  
22 August, 1974, both dates being approximate and inclu-  
23 sive, within the Eastern District of New York, and  
24 elsewhere, the defendants Ronald Robinson and James  
25 Black Jr. did combine, conspire, confederate and

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2 agree together and with others, known and unknown  
3 to the Grand Jury, to steal from the mails numerous  
4 United States Treasury checks and to forge the  
5 endorsements of payees on the said stolen checks  
6 and to utter and publish as true the said forged  
7 checks for the purpose of obtaining and receiving  
8 sums of money from the United States in violation  
9 of Section 495 and 1708 of Title 18 of the United  
10 States Code.

11 "Two, it was part of the conspiracy that  
12 the defendants Ronald Robinson and James Black Jr.  
13 would open and cause to be opened, bank accounts  
14 for the purposes of negotiating stolen United States  
15 Treasury checks and New York City Department of  
16 Social Services checks.

17 "Three, it was further a part of the con-  
18 spiracy that the defendants Ronald Robinson and  
19 James Black Jr. would purchase stolen United States  
20 Treasury checks from others at a substantial dis-  
21 count from their face value.

22 "Four, it is further a part of the conspiracy  
23 that the defendants Ronald Robinson and James Black  
24 Jr. would deposit or cause to be deposited in the  
25 aforementioned bank accounts, stolen United States



Treasury checks in the aggregated sum of approximately seven thousand dollars.

"Five, it was further a part of the conspiracy of the defendants Ronald Robinson and James Black Jr. that they would make and cause to be made withdrawals from the aforementioned bank accounts representing the proceeds of said stolen checks.

"In furtherance of the aforesaid conspiracy and to effect the objects thereof, the defendants Ronald Robinson and James Black Jr., within the Eastern District of New York, did commit among others the following overt acts.

"One, on or about April 19, 1974, the defendant opened an account in the name of New York Boulevard Deli at the Marine Midland Bank, 89-61 163rd Street, Jamaica, New York.

"Two, on or about May 29th, 1974, the defendant opened an account in the name of New York Boulevard Deli at the National Bank of North America, 205-02 Linden Boulevard, St. Albans, New York.

"Three, on or about July 8th, 1974, the defendant opened an account in the name of the Sutphin Boulevard Deli at the Marine Midland Bank, 191-20 Sutphin Boulevard, Jamaica, New York, all in

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2 violation of Title 18, United States Code Section  
3 371."

4 Now, that is the so-called conspiracy count.  
5 We now come to count two.

6 Count two says, "On or about the first day  
7 of August, 1974, within the Eastern District of  
8 New York, the defendants Ronald Robinson and James  
9 Black Jr. with the intent to defraud the United  
10 States, did utter and publish as true, United States  
11 Treasury checks numbers 53126008 dated July 26,  
12 1974 in the sum of two thousand nine hundred and  
13 ninety-five dollars payable to Thony Terranova,  
14 upon which the name of the payee had been forged,  
15 known payee's name to be forged."

16 Now I'll make one comment on that count  
17 too because it covers a check payable to Thony  
18 Terranova and in that particular count it states  
19 that that check was in effect negotiated with intent  
20 to defraud the United States Government, upon which  
21 the name of the payee was forged and that the  
22 defendant knew it was forged.

23 You are going to hear another count covering  
24 that same check. I bring to your attention that  
25 under the statute and in this indictment it is not



1  
2 claimed that the defendant Robinson did the  
3 forging. It simply is claimed that with intent to  
4 defraud he negotiated, that is both of them, not  
5 only Robinson, but Black also, this check payable  
6 in the amount of two thousand nine hundred and  
7 ninety-five dollars, payable to Thony Terranova,  
8 upon which the named payee had been forged.

9 Now there will be another count covering  
10 the same check, but entirely a different kind of  
11 offense in count three, which reads as follows:

12 "On or about the first day of August, 1974,  
13 within the Eastern District of New York, the  
14 defendants Ronald Robinson and Black Jr.,  
15 did unlawfully have in their possession a United  
16 States Treasury check in the sum of two thousand  
17 nine hundred and ninety-five dollars, made payable  
18 to Thony Terranova which has the contents of a  
19 letter stolen from the United States mail, the  
20 defendants knowing the same to have been stolen  
21 from the United States mail."

22 Very well. I don't think it is necessary  
23 for me to read the other checks. The other counts  
24 are verbatim, because they simply, they are the  
25 same except they cover I think five other checks.

MR. MARKS: Seven other additional checks.

THE COURT: You are right. Seven other checks.

Count four covers the eighth check, I'll read count four and five to you.

Count four says, "On or about the first day of May, 1974, within the Eastern District of New York, the defendants Ronald Robinson and James Black, Jr., with intent to defraud the United States, did utter and publish as true United States Treasury check number 43,862,546 dated May 24, 1974, in the sum of one thousand two hundred and twenty-seven dollars and twenty-two cents, payable to Mario and Ramona Colon, upon which the name of the payee had been forged, knowing the payee's name to be forged."

You see, that is the question of negotiation with intent to defraud a check. That is a treasury check, United States Treasury check. That is not a welfare check, payable to these people whose names had been forged and that the defendants knew the names had been forged.

Count five refers to the other side of the coin. It says, "On or about the first day of May, 1974, within the Eastern District of New York, the



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defendants Ronald Robinson and James Black, Jr., did unlawfully have in their possession a United States Treasury check in the sum of one thousand two hundred and twenty-seven dollars and twenty-two cents made payable to Mario and Ramona Colon, which was the contents of a letter stolen from the United States Mail, the defendants knowing the same to have been stolen."

Now the other counts I won't read because they are the same way, except naturally, they are different payees.

Count six refers to the payee Linda Clarkson. That is a treasury check in the amount of two thousand six hundred and eighty-five dollars.

Count seven covers the same check that charges a violation of a different statute. That depends upon having in possession that check of which the contents were stolen from the United States mails.

Count eight and nine refers to the same thing except a different check, referring to a check payable to Clinton Maxwell.

Count ten and eleven have the same allegations except they refer to a check payable to Philip Staller and counts twelve and thirteen have the same allegations

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2 that I have read to you, but the other two counts  
3 refer to a check payable to Terry Benedetti. I  
4 think she took the stand.

5 Fourteen and fifteen refer to a check payable  
6 to Dorothy Berry in the amount of two hundred and  
7 forty-four dollars and counts sixteen and seventeen  
8 refers to a check payable to Frieda R. Stingium in  
9 the amount of one hundred and ninety-eight dollars.

10 If you request a copy of the indictment it  
11 can be sent into the jury room.

12 As you will see the indictment contains  
13 seventeen counts. The first count charges conspiracy  
14 between the defendant Ronald Robinson and James  
15 Black, Jr. and others unknown to the Grand Jury, to  
16 steal from the mails United States Treasury checks  
17 and to forge the endorsements of the payees on the  
18 stolen checks, and to publish and issue as true  
19 these forged checks in order to obtain money from the  
20 United States.

21 I will explain conspiracy to you a little  
22 later. It is in a different category than the other  
23 counts because it is alleged that it is an illegal  
24 agreement in itself. That is an offense, even though  
25 outside of having one overt act, even though the



actual offenses were never committed.

In other words, it's illegal to conspire to commit a violation of the United States statute.

Now the other sixteen counts, whether or not those offenses are even committed, is another matter. Now the other sixteen counts charge that the defendant, Ronald Robinson, James Black, Jr., with issuing or negotiating as true certain United States treasury checks upon which the payee's names were forged, knowing that they had been forged, and also with having in their possession these checks, knowing the same to have been stolen from the mail.

In order to understand the indictment you must realize that two statutes have been allegedly violated by the defendants with respect to each check specifically described in the indictment, which checks were allegedly negotiated with forged names, knowing the same to be forged. One statute, Section 495 of Title 18 of the United States Code is violated by the mere unlawful possession of a stolen United States Treasury check, knowing the same to have been stolen and the other statute, Section 1708 of Title 18 of the United States Code, is a violation when, with intent to defraud the United States, a United States Treasury

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2 check is issued or negotiated as a true United States  
3 Treasury check upon which the name of the payee had  
4 been forged with knowledge by defendants that the  
5 payee's name was forged.

6 Consequently, when I read the indictment  
7 you noticed that I mentioned the same check in two  
8 different counts to cover the alleged violation of  
9 the two different statutes.

10 Now at this point I must remind you as un-  
11 doubtedly it has been brought out by the evidence  
12 that the defendant James Black Jr., has pled guilty  
13 to count one, the conspiracy count of the indictment,  
14 but this fact has no bearing whatsoever upon the  
15 guilt or the innocence of the defendant Ronald  
16 Robinson because as I pointed out to you, an indict-  
17 ment is not evidence but simply an accusation.

18 For the sake of convenience I'll describe  
19 the conspiracy count, count one last after I have  
20 explained the elements of the two statutes allegedly  
21 violated in the other counts of the indictment with  
22 respect to each check.

23 The pertinent portion of the Section 495 of  
24 Title 18 of the United States Code, claimed to have  
25 been violated with respect to each check in counts



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two, four, six, eight, ten, twelve, fourteen  
and sixteen, that is the even numbers of the indictment, reads as follows:

"Whoever utters or publishes as true any  
such false, forged, altered, or counterfeited writing,  
with intent to defraud the United States, knowing  
the same to be false, altered, forged, or counter-  
feited," shall be punished."

The elements of the offense as charged in  
these counts of the indictment are one, the uttering,  
which means the issuance or negotiation of a forged  
writing or check, with intent to defraud the United  
States, and two, that the writing or check was  
false or forged.

Now under this particular statute and under  
this particular element of the offenses, it is  
unnecessary for the Government to prove actually,  
the defendant himself forged the writing of the check.  
It is sufficient under this element of the offense  
that a defendant knew that the check was false.  
In order to find that the defendant is guilty under  
this statute, it is necessary that you find beyond  
a reasonable doubt, that the defendant issued or  
negotiated a forged check, knowing the same to be

1 forged, with intent to defraud the United States.

2  
3 I will make that clearer. He had to, with  
4 intent, to defraud the United States, issue or  
5 negotiate or forge a check which he knew was forged.  
6 That is to say that he knew the endorsement on it  
7 was false. The negotiation could be the deposit  
8 of such a check in a bank. And the forgery could be  
9 the endorsement of the payee's name on the back of  
10 the check.

11 Now the burden is upon the Government to  
12 prove, beyond a reasonable doubt, these two elements  
13 and failure to do so is fatal to the prosecution  
14 under these counts and will entitle the defendant to  
15 a verdict of acquittal.

16 Now we go to the other statute which the indict-  
17 ment says was violated. That is Section 1708 of  
18 Title 18. The pertinent portion of Section 1708  
19 of Title 18 of the United States Code, claimed to  
20 have been violated with respect to each check in  
21 counts three, five, seven, nine, eleven, thirteen,  
22 fifteen and seventeen, that is the odd numbers of  
23 the indictment, reads as follows:

24 "Whoever buys, receives, or conceals or  
25 unlawfully has in his possession, any letter, postal



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2 card, package, bag, or mail, or any article or  
3 thing contained therein, which has been so stolen,  
4 taken, embezzled, or abstracted, as herein described,  
5 knowing the same to have been stolen, taken, embezzled  
6 or abstracted."

7 I think I better read it to you so that you  
8 might understand what the statute talks about when  
9 I say abstraction. I hoped I would save you the  
10 time with respect to that, but I think I ought to  
11 read the whole statute to you because I read to you  
12 just the last paragraph.

13 The statute says, "Whoever steals, takes or  
14 abstracts, or by fraud or deception obtains or  
15 attempts so to obtain, from or out of any mail, post  
16 office, or station thereof, letter box, mail receptacle,  
17 or any mail route or any other authorized deposi-  
18 tory for mail matter, or from a letter or mail  
19 carrier, any letter, postal card, package, bag, or  
20 mail, or abstracts or removes from any such letter,  
21 package, bag, or mail, any article or thing con-  
22 tained therein, or secretes, embezzles, or destroys any  
23 such letter, postal card, package, bag, or mail, or any  
24 article or thing contained therein," the defendant is not  
25 charged with a violation of that particular paragraph,

1  
2 but I must read it to you so you understand this last  
3 paragraph that I have read.

4 Now, the second paragraph of Section 1708  
5 reads, "Whoever steals, takes, or abstracts, or by  
6 fraud or deception, obtains any letter, postal card,  
7 package, bag, or mail, or any article or thing contained  
8 therein which has been left for collection upon or  
9 adjacent to a collection box or other authorized  
10 depository of mail matter, or" and this is the para-  
11 graph I previously read to you a little while ago,  
12 "whoever buys, receives, or conceals, or unlawfully  
13 has in his possession, any letter, postal card,  
14 package, bag, or mail, or any article or thing  
15 contained therein, which has been so stolen, taken,  
16 embezzled or abstracted, as herein described, knowing  
17 the same to have been stolen, taken, embezzled, or  
18 abstracted."

19 Very well.

20 Now, the elements of the offense as charged  
21 in these counts of the indictment are one, the  
22 unlawful possession of an article, such as a check,  
23 stolen from the United States mail, and, two, know-  
24 ledge that the article, such as a check, was stolen  
25 from the United States mail.



Now under the element of the offense it is unnecessary for the Government to prove that the defendant himself stole the checks but it is sufficient under this particular element of the offense that a defendant knew that the checks were stolen from the mails.

In order to find the defendant guilty under this statute, it is sufficient that you find, beyond a reasonable doubt, that the defendant unlawfully had in his possession anything stolen from the United States mail, such as a check, knowing the same to have been stolen.

You will notice in both cases I emphasized the fact that the defendant must know that either the check was forged under the first statute or he must know that the check was stolen under the same, under the second statute.

The burden is upon the Government to prove, beyond a reasonable doubt, these two elements, and failure to do so is fatal to the prosecution and entitles the defendant to a verdict of acquittal under these counts.

Now in the indictment there is mentioned that Title 18, Section 11 of the United States statute

Charge

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1 was also violated by these two defendants. I think  
2 you will remember I told you that statute refers to  
3 aiding and abetting. If I'm not mistaken, I read a  
4 portion of the statute, so these defendants are  
5 accused not only with the actual committing of the  
6 offense, but also with aiding and abetting someone  
7 else in committing the offense.  
8

9 The Government in this case charges the  
10 defendant Ronald Robinson with aiding and abetting  
11 the commission of the offenses charged in counts  
12 two to seventeen, inclusive, that is to say, the  
13 Government charges that even if the defendant, Ronald  
14 Robinson did not commit the offenses personally, if  
15 he aided and abetted another to commit the offenses,  
16 then he is in the same position as a principal  
17 offender. This aiding and abetting statute, which is  
18 referred to in counts two to seventeen, inclusive,  
19 as Section II of Title 18 of the United States Code,  
20 places in the category of a principal offender anyone  
21 who aids or abets an offender.

22 This section reads as follows:

23 "Whoever commits an offense against the United  
24 States or aids, abets, counsels, commands, induces or  
25 procures its commission, is punishable as a principal.



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"B, Whoever wilfully causes an act to be done which if directly performed by him or another would be an offense against the United States, is punishable as a principal."

This section is self-explanatory.

Thus, anyone who does not commit the offense himself but who aids or abets an offender or causes an act to be done which if directly performed by him would be an offense against the United States, is a principal.

In other words, anyone who shares in the criminal intent of the principal and is wilfully associated with the venture in a way that by his action he wilfully participates or assists in the bringing about the ultimate result, is, under this section, in the same position as the principal.

Here the charge is that Robinson himself committed the offense set forth in the indictment and also that he aided and abetted and helped others, including one James S. Black, Jr., to commit the offenses as charged.

But the burden is upon the Government to prove, beyond a reasonable doubt, that one, there was an offense committed against the United States

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by some principal, and two, that the defendant Robinson wilfully and knowingly, knowingly abetted and assisted in its commission. The failure of the Government to prove these two elements is fatal to the prosecution and entitles a defendant to a verdict of acquittal on the charge of aiding and abetting.

Now we revert to count one of the indictment, which is the conspiracy count. That count charges the defendant Ronald Robinson, James Black, Jr. and others not known to the Grand Jury with conspiring to steal from the mails United States Treasury checks and to forge the endorsements of the payees on the stolen checks and to issue as genuine and true the forged checks for the purpose of obtaining and receiving sums of money, in violation of Sections 495 and 1708 of Title 18 of the United States Code which I have already read to you, and also in violation of Section 371 of Title 18 of the United States Code.

Now, "conspiracy" is defined in the statute under Section 371 of Title 18 of the United States Code. This section reads in part as follows:

"If two or more persons conspire either to



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commit any offense against the United States, or to defraud the United States, or any agency thereof, in any manner or for any purpose, and one or more of such persons to any act to effect the object of the conspiracy, each shall be punished."

Now I shall attempt to describe to you the elements of this offense.

The crime of conspiracy, as defined in the statute and as charged in the indictment, is a separate and distinct crime. The conspiracy is something apart from and independent of the substantive offenses embraced within its unlawful object. The essence of the crime is the unlawful agreement among the parties to commit an offense against the United States, attended by the overt act of one or more of them in furtherance of the conspiracy to effect its unlawful object. The crime is complete when one of the parties to the conspiracy, pursuant to their unlawful agreement or common understanding, does any act to effect its unlawful object.

Now the accomplishment of the unlawful object of the conspiracy is not essential to the crime. In other words, the defendants can get together to

commit a crime and can conspire to do it and if they take one act and effectuate its object they are guilty of the crime of conspiracy, even though the actual crime which they agreed to commit was never committed. I hope I made myself clear.

The essential elements of the crime of conspiracy otherwise stated, are:

First, the unlawful combination of two or more persons, pursuant to an unlawful agreement of common understanding to commit an offense against the United States; and second, the overt act of one or more of them in furtherance of the conspiracy and to effect its unlawful object.

There is no crime in the absence of either or both of these elements.

By the term "overt act" there is meant any act committed by one of the conspirators in an effort to effect or accomplish some object or purpose of the conspiracy. The overt act itself need not be criminal in nature, if considered separately and apart from the conspiracy, but it must be an act in furtherance of the object or purpose of the conspiracy charged in the indictment.

There is no requirement that the agreement



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be a formal agreement in which the unlawful objects of the conspiracy are explicitly spelled out or stated. Such a requirement would render proof of the agreement most difficult, if not impossible.

It is sufficient that the minds of the parties meet understandingly on their common purpose to commit the offense. The agreement is usually, if not always, an implied agreement; that is, a mere common understanding among the parties to accomplish by their concerted action, the unlawful object of the conspiracy. Such an agreement is generally a matter of inference deduced from the acts of the persons accused, done in pursuance of their apparent criminal purpose.

Now with respect to the alleged conspiracy, you must first determine from all the evidence in the case, relating to the period of time embraced in the indictment, whether or not a conspiracy, as I have defined that term, existed.

If you decide that a conspiracy did exist, then, you must next determine whether or not this defendant was a member of the conspiracy.

In determining whether or not a defendant was a member of a conspiracy you must do so by evidence

2 as to his own conduct, that is, what he himself  
3 said or did, in this connection, you must not  
4 consider the evidence of what others said or did.

5 In other words, you must determine the  
6 membership of the defendant in the conspiracy from  
7 the testimony of the witnesses concerning the  
8 defendant's own actions, conduct and statements.

9 However, once you have determined that a  
10 defendant was a member of the conspiracy, using  
11 this test, you may then consider as if made by  
12 him, the statements and declarations of any other  
13 co-conspirator or conspirators made thereafter in  
14 furtherance of the conspiracy and during the  
15 existence thereof.

16 The guilt of a defendant, once he is proven  
17 to be a member of the conspiracy, may be established  
18 by the acts of his fellow conspirator or conspirators  
19 during and in furtherance of the conspiracy, without  
20 proof that the defendant did every act constituting  
21 the offense.

22 However, mere association or acquaintance of  
23 the defendant with another who may be guilty of an  
24 offense does not establish the existence of a  
25 conspiracy. Moreover, one may guilty of a conspiracy



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2 to commit a crime even though he did not himself  
3 participate in the commission of the crime itself.  
4 But you must look at all of the evidence as it  
5 relates to this particular defendant.

6 There is upon the Government a burden to prove,  
7 beyond a reasonable doubt, that the defendant was a  
8 party to the conspiracy as defined as I have said  
9 before, if the defendant is guilty of a conspiracy,  
10 you must find he participated in the conspiracy and  
11 was part of it.

12 This case was not a long one and I am not  
13 going to marshal the evidence, because I think by  
14 this time you have thoroughly digested the evidence.  
15 I simply want to emphasize it is your recollection  
16 of the evidence that will count in this case and  
17 you must understand that the Court does not express,  
18 and has not expressed, directly or indirectly,  
19 subtly or otherwise, by intonation or gesture, any  
20 opinion concerning any of the facts that are involved  
21 in this case.

22 If the attorneys, or either of them, have  
23 misstated the testimony, you must disregard such  
24 misstatements. Again, I advise you that it will be  
25 your recollection of the testimony that will control

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1 in your deliberations and not the attorneys' argu-  
2 ments and not anything that the Court might have  
3 said concerning the facts.  
4

5 The Government's contentions have been set  
6 forth clearly in the indictment. The defendant,  
7 however, denies absolutely the contentions set  
8 forth in the indictment as I have read it to you  
9 and he pleads not guilty to all the counts in the  
10 indictment.

11 Now you must consider all seventeen counts  
12 separately and the evidence against this defendant  
13 separately with respect to each count.

14 I must point out to you that while the indict-  
15 ment refers only to a violation of the United States  
16 statutes with respect to the United States Treasury  
17 checks, there was introduced into evidence a number  
18 of stolen city welfare checks which were deposited  
19 at the Marine Midland Bank and the National Bank  
20 of North America in an account in the name of  
21 New York Boulevard Deli, which was allegedly a part-  
22 nership entered into between James Black, Jr. and  
23 the defendant Ronald Robinson.

24 In other words, these checks were deposited  
25 in these two banks in the same manner that the United



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States Treasury checks were deposited. While these checks were not covered in the indictment, they were admitted into evidence as similar transactions by Ronald Robinson and James Black, Jr. in order to indicate that they had knowledge that the United States Treasury checks in their possession were stolen and deposited in the New York Boulevard Deli account, they were stolen and they had knowledge the endorsements on the back of the checks were forged. This is what is referred to as evidence of a similar transaction. This evidence may be considered by the jury to the limited extent to establish knowledge and intent and the jury may give it such weight as it deserves or the jury may completely reject this evidence.

But, as I said before, these particular welfare checks were not covered by the indictment and of course, the defendants cannot be guilty of any offense with respect thereto under the indictment.

In addition, there was admitted into evidence as you will remember, two stolen treasury checks which were deposited in the personal account of the defendant, Robinson.

Now these checks were not covered by the

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2 indictment either. But, they again were admitted  
3 into evidence to indicate the defendant Robinson  
4 had knowledge that the checks actually covered by  
5 the indictment were stolen and were forged. They  
6 may be considered by you for that limited purpose  
7 and you may give them such weight as you think they  
8 deserve or you may completely disregard this evidence.

9 I think I might say if I am not mistaken that  
10 as to the checks covered by the counts two through  
11 seventeen inclusive, I think it was stipulated that  
12 those checks were stolen, and the endorsements  
13 thereon were forged. It was definitely stipulated,  
14 so, the real question is their knowledge.

15 Now in light of these instructions we must  
16 consider for a moment the testimony of James Black,  
17 Jr. He testified that he participated in a con-  
18 spiracy between him and the defendant, Ronald  
19 Robinson and he testified concerning the possession  
20 of stolen checks, knowing they were stolen. He also  
21 testified that the endorsements on the back of the  
22 checks were forged and that he knew they were forged;  
23 that he had a partnership with the defendant, Ronald  
24 Robinson to buy stolen United States Treasury checks  
25 and city welfare checks at one third of the principal



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2 amount and to deposit them in an account in the  
3 name of New York Boulevard Deli.

4 You will remember that testimony as well as I.  
5 Of course, the testimony was more extensive than  
6 that.

7 If I have misstated any of the testimony you  
8 must disregard it because your recollection and only  
9 your recollection of the testimony that will control.

10 In other words, James Black Jr. was an accomplice  
11 in this venture. He pleaded guilty to the charge of  
12 the conspiracy in the indictment. That was count one.

13 He testified he was cooperating with the  
14 Government because he hoped and he expected the  
15 Court would take his cooperation into consideration  
16 when imposing sentence. But there was no promise  
17 by the Court what the sentence would be and in truth  
18 Judges do consider, when imposing sentence, the  
19 fact that a particular witness has cooperated with  
20 the Government. But there is no promise and no  
21 guarantee of anything.

22 Now, James Black, Jr., also testified he was  
23 guilty of a long list of offenses and in fact, he  
24 admitted that he was a felon.

25 The fact that a person is an accomplice or the

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2       fa    that a person is an admitted felon does not  
3       disqualify him from testifying as a witness and  
4       does not necessarily mean that his testimony is  
5       untruthful. But the testimony of an accomplice  
6       and of a felon, however, should be taken with great  
7       caution and should be scrutinized very carefully  
8       by you.

9               Moreover, you must give careful consideration  
10       to any motive or bias which James Black, Jr., may  
11       have had to give false testimony and you must decide  
12       whether his testimony was    substantial<sup>y</sup> influence  
13       or influenced at all by the hope or belief that he  
14       might receive a lighter sentence, for cooperation  
15       with the Government.

16              Hope and belief on the part of an accomplice  
17       for a lighter sentence, however, does not necessarily  
18       mean that the accomplice is testifying falsely.  
19       Such hope and belief is simply a factor to be con-  
20       sidered by you and the same is true with respect  
21       to the testimony of an admitted felon. You look  
22       at that witness and you decide whether his story is  
23       inherently probably or improbable under all the  
24       circumstances and whether his testimony carried with  
25       it a ring of truth and how well he stood up on cross



examination.

The credence you give to the testimony of James Black Jr. depends upon your common sense and good judgment and also upon the inherent probability of his story. Although you are required to scrutinize the testimony of an accomplice and a felon with the utmost care and circumspection, there is no requirement in the law that the testimony of an accomplice be corroborated.

If, however, you find that the guilt of the defendant Ronald Robinson depends solely upon the testimony of such a witness, such as Mr. Black, and you do not believe that witness on material items covered by his testimony, then you must bring in a verdict of acquittal.

Now you have heard me refer to the fact that knowledge and intent was necessary for conviction. Now to be found guilty in this case you must find the defendant Ronald Robinson had possession of stolen checks, stolen checks from the mail and that as to certain counts of the indictment he knew the checks were stolen and as to the other counts of the indictment he knew that the payees' names were forged.

Charge

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2           Now as to certain counts of the indictment  
3 you must also find that there was an intent to  
4 defraud the United States of America. Now I'm not  
5 mentioning specifically those counts. All you  
6 have to do is look at the indictment and you will  
7 see what is charged in those counts.

8           They say here that it was stipulated that  
9 the checks covered by the indictment were stolen  
10 and that the names of the payees were forged. So  
11 that leaves the question of intent to defraud and  
12 the question of knowledge on the part of the defen-  
13 dant Robinson.

14           "Knowledge," as well as "intent," is descrip-  
15 tive of a state of mind, and as an element of the  
16 offense is seldom, if ever, susceptible of direct  
17 proof. The proof of this element of knowledge and  
18 intent may rest, as it frequently does, on evidence  
19 of facts and circumstances from which it clearly  
20 appears as the only reasonable and logical inference  
21 that the accused had knowledge of the illegal posses-  
22 sion of the United States Treasury checks or that  
23 the accused had knowledge that the endorsements on  
24 the checks were forged.

25           But in determining knowledge or intent you



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must consider his intelligence or sophistication or lack of intelligence and sophistication. No person can intentionally avoid knowledge by closing his eyes to the facts that would lead a reasonable man to investigate. However, a mere suspicion that something is wrong or improper is not equivalent to knowledge or intent.

On the other hand, knowledge and intent may be inferred from the acts of the party and it is a question of fact to be determined from all the circumstances, and the jury may scrutinize the defendant's entire conduct at the time the offenses alleged were committed.

No person can disclaim knowledge merely by closing his eyes intentionally to facts which would otherwise have been obvious to a reasonable man. The circumstantial evidence sufficient to support a charge of knowledge and intent to possess stolen United States Treasury checks or to negotiate them, issue, utter United States Treasury checks with forged endorsements thereon must be sufficiently persuasive, however, as to exclude the inference of innocence under the circumstances.

Of course we can seldom look inside a person's

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mind. It is impossible as you know to do that.

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So we must depend upon circumstances surrounding

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his conduct.

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Now, intent to defraud the United States

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as used in connection with the passing or possession

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of a forged United States Treasury check, means an

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intent to defraud third persons, known or unknown,

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by passing or uttering the forged check with knowledge

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that the same was forged. While the defendant must

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have knowledge that the check was forged, it is not

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necessary that he intended to defraud a particular

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person as long as he has the intent that the check

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had been cashed or passed or used as true and a

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genuine check, although in actuality, it was forged.

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Intent may be proved by circumstantial evidence.

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What the defendant did or failed to do may indicate

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intent or lack of intent to commit the offense charged.

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In determining the issue of intent in this

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case a jury may reasonably infer, as I said before,

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that a person ordinarily intends the natural and

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probable consequences of acts knowingly done or

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knowingly omitted.

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So, unless the contrary appears from the

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evidence, the jury may draw the inference that the



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defendant intended all the consequences which one in like circumstances and possessing like knowledge should reasonably have expected to result from any act knowingly done or knowingly omitted by the defendant.

The Government's case against the defendant rests on both direct and circumstantial evidence.

As to the subject of circumstantial evidence: Circumstantial evidence is evidence of a fact from which you may reasonably infer the existence or non-existence of another fact.

For example, suppose you are in a room with no windows and a person comes into your home wearing a raincoat which is wet, carrying an umbrella which is wet, that would be circumstantial proof that it was raining outside even though you did not otherwise know it was raining.

Or, to give you another illustration, perhaps a little more closer to home here in the courtroom: Suppose a member of the jury, that is the foreman of the jury, were to ask one of the courtroom clerks, Mr. Bruce Nims here, for a pad and pencil to make certain notes, and suppose that immediately thereafter you took a recess and you came back and the

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2 reporter here, this gentleman sitting here who  
3 we will call clerk number two, not clerk number  
4 one, to whom the member of the jury first spoke,  
5 were to hand the juror a pad of paper and a pencil;  
6 that would be circumstantial evidence that the court  
7 clerk number one had given the juror's message to  
8 court clerk number two. That is circumstantial  
9 evidence.

10 Although no one saw it or heard it, Mr. Nims  
11 gives the reporter that message. He can infer  
12 that it must have happened.

13 As the words indicate, circumstantial evidence  
14 means evidence involving circumstances surrounding  
15 the incident and details as distinguished from  
16 direct personal observation.

17 It is more than, and fundamentally different  
18 from mere conjecture or surmise; under our law no  
19 man is to be convicted on the basis of guess work  
20 or on the basis of speculation.

21 An inference that is reasonably drawn from  
22 the facts testified to is evidence. In analyzing  
23 the evidence you may draw reasonable inferences  
24 using your own common sense or based upon your general  
25 experience from any facts that you find were proved



1  
2 in the case. When two inferences may be drawn from  
3 a proven fact, one consistent with guilt and one  
4 consistent with innocence, you must draw the  
5 inference of innocence.

6 Now, a logical inference is to be distinguished  
7 from sheer speculation or mere suspicion.

8 Going back to the statement that I made when  
9 I said two inferences may be drawn from a proven  
10 fact, I am talking about when two inferences, two  
11 inferences may be reasonable drawn from a proven  
12 fact. In one case it's consistent with guilt and  
13 one reasonable inference is consistent with knowledge,  
14 then you must draw the reasonable inference consistent  
15 with innocence.

16 A logical inference is to be distinguished  
17 from sheer speculation or mere suspicion.

18 Circumstantial evidence is legal and accept-  
19 able evidence. It is that evidence which tends to  
20 prove a disputed fact by proof of other facts which  
21 have a legitimate tendency to lead the mind to a  
22 conclusion that the fact exists which is sought to  
23 be established.

24 Now circumstantial evidence may consist of  
25 an accumulation of many details which are so logically

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interrelated and they are so consistent with each other, and so inherently probable, that you may not have the slightest doubt as to its truthfulness and its accuracy.

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As a general rule, the law makes no distinction between direct and circumstantial evidence.

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Circumstantial evidence may be enough to convict but the circumstantial evidence must be so convincing that it leaves no reasonable doubt. If you have a reasonable doubt after you consider all the circumstantial and other evidence as to this defendant, then of course you must acquit him.

Now the defendant testified in his own behalf. You heard him. A defendant who wishes to testify is a competent witness, and his testimony should not be disbelieved merely because he is a defendant.

However, in weighing his testimony, you may consider the fact that the defendant has a vital interest in the outcome of this trial and you may also consider and take into account the probabilities or improbabilities of the defendant's stories and you may also consider how well he stood up under cross examination.

We now come to another portion of consideration



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1 in this case and that is the credibility of witnesses.

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3 In considering the evidence you are going  
4 to exercise the exclusive function of passing upon  
5 the credibility of the witnesses. You can see this  
6 is a very important function because to determine  
7 where the truth lies you must of necessity decide  
8 who is telling the truth. How you are to do this  
9 is left to your own determination.

10 Among other things, in determining the  
11 credibility of a witness the jury may consider the  
12 witness' motives and integrity. You may consider  
13 the witness' manner. The witness' demeanor on the  
14 witness stand. The witness' interest, prejudice  
15 or biased if any and whether the witness has a purpose  
16 or interest to serve which might color his testimony.

17 Interest does not necessarily mean that a  
18 witness is untruthful. It is merely an element that  
19 you may consider, in reaching your determination,  
20 upon the question of whether the witness is telling  
21 the truth.

22 You consider the witness' demeanor and to  
23 use a colloquial expression, "you size him up,"  
24 when he tells you anything, and you decide whether  
25 this witness strikes you as a fair and candid witness,

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2 or whether he or she strikes you as a person who is  
3 not telling the truth either intentionally or unintentionally.  
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5 You may also consider the witness' intelligence,  
6 his or her state of mind and the witness' ability to  
7 observe the matters as to which he is testifying and  
8 whether the witness impresses you as having a fair  
9 and accurate recollection of these matters.

10 You must also consider the inherent probability  
11 or improbability of a witness' testimony, and of  
12 course you should consider the inconsistencies or  
13 discrepancies in the testimony of a witness and of  
14 the different witnesses. Such inconsistencies or  
15 discrepancies may or may not cause you to discredit  
16 a witness' testimony.

17 Of course, two or more persons witnessing an  
18 incident or an event or transaction may see or hear  
19 it differently and may remember it differently.

20 An innocent misrecollection, like failure of  
21 recollection, is not an uncommon experience. Moreover,  
22 it is not uncommon for a witness to fail to  
23 remember exact time of the day of an event or transaction  
24 which occurred several years ago, nor to  
25 remember unimportant or insignificant details of an



event.

You decide whether misrecollection of such details is an innocent misrecollection or intentional falsehood.

In weighing the effect of an inconsistency or a discrepancy, you always must consider whether it pertains to a matter of importance or whether it is an unimportant detail and also whether the inconsistency or discrepancy results from innocent error intentional falsehood.

Of course, another consideration is whether or not the witness has been contradicted by other credible evidence and whether he has made statements at other times and places under oath or otherwise, which contradicted or are contrary to the statements the witness made on the witness stand.

As to the latter, you should consider whether any prior inconsistent or contradictory statements conflict with the testimony given by the witness with respect to material or immaterial matters and to what extent, if any, and they should be considered to effect the witness' credibility.

In considering any prior inconsistent or contradictory statements made by a witness or a

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conflict of any testimony the witness had given on the stand or at some other time or before a Grand Jury, it is important to determine whether those inconsistencies or conflicts refer to material or essential portions of his testimony or to immaterial and unimportant details of his or her story and to what extent, if any, they affect the credibility of a witness as to the essential facts in the case.

You decide what is important and what is not important regardless of any statements-made-to you by the attorneys.

The jury of course is not bound to believe inherently improbable or unreasonable statements made by any witness just because the witness who made them was under oath.

The jury has a right in appraising a particular witness' credibility as to all or part of his testimony, to consider the probability or improbability of that testimony when reviewed in the light of all of the circumstances and all of the evidence in the case.

If you find that any witness has knowingly testified falsely to a material fact, you may



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disregard the entire testimony of that witness.

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If you believe that witness as to any material fact

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you may accept that which you believe to be true and

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disregard the balance. If you disregard his testi-

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mony all together and the guilt of this defendant

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is to depend upon such testimony, then you must

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acquit the defendant.

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A word about opinion evidence.

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In this case Luciano V. Caputo, a handwriting

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expert, was called to give his opinion concerning

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certain checks and other documents which were intro-

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duced into evidence. I don't know whether his testi-

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mony is too important as to the checks covered by

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the indictment inasmuch as the checks and the endorse-

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ments were admittedly forged thereon and inasmuch

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as the checks were admittedly stolen. But there

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was some question where his opinion wasn't necessary

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and I simply want to bring out to you that the rules

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of evidence ordinarily do not permit a witness to

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testify as to his opinion or conclusions. He can

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testify to what he saw or heard and testify as to

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facts but an exception to this rule exists as to

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those whom we call expert witnesses. Witnesses who,

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by education and experience, have become expert in

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2 some art, science, profession, or calling, may  
3 state an opinion as to relevant and material matter,  
4 in which they profess to be expert and may also  
5 state their reasons for the opinion.

6 You should consider each expert opinion  
7 received in evidence in this case and give it such  
8 weight as you may think it deserves. If you should  
9 decide that the opinion of an expert witness is not  
10 based on sufficient education and experience, or  
11 if you should conclude that the reasons given in  
12 support of the opinion are not sound, you may reject  
13 the opinion completely.

14 It is for you to determine whether a witness,  
15 whoever it may be, is telling the truth as to all  
16 the facts or only with respect to some of the facts  
17 or whether he is telling the truth at all. The test  
18 as to whether you believe a witness is the same  
19 test, ladies and gentlemen, I want you to listen to  
20 this, which you apply your every day business or  
21 in your home affairs, where you are called upon to  
22 make a similar determination almost every day.

23 Do not think, members of the jury, when you  
24 entered into this jury box and were sworn as jurors  
25 that it was supposed that you would lay aside your



business or every day experience. That simply is not so.

You are now being called upon, indeed, to use that business and every day personal experience to assist you in determining the conflict in evidence in this case. You are the exclusive judges in determining where the truth lies.

In this case it seems that there is a question as to whether some of these witnesses are telling the truth, either intentionally or innocently. It is for you to determine the truth.

Now you have been chosen and sworn as jurors in this case to try the issues of fact presented by the allegations of the indictment and the denial made by the "not guilty" plea of the defendant accused.

Now, let your verdict be without prejudice, bias or sympathy. You are a fact finding body and it is your duty to decide whether the acts charged in the indictment have been committed by the defendant beyond a reasonable doubt. You are to perform this duty without fear and without bias or prejudice as to any party. You are to be reasonable in your deliberations.

Now, the law does not permit jurors to be

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governed by fear, sympathy or prejudice or public opinion. In arriving at your decision you should consider the evidence in the light of your experience and by the exercise of your own knowledge and common sense. You must not permit any plea of sympathy to enter into your verdict. The accused and the public expect that you will carefully and impartially consider all of the evidence, follow the law as stated by the Court and you will reach a just verdict, regardless of the consequences.

While you must not surrender your conscientious opinion, you must not be stubborn just for the sake of being stubborn. You must keep your mind open to reason.

In conclusion, let me say that it is your duty again to weigh carefully and dispassionately and calmly the evidence and you reach a conclusion based upon common sense, about the case, as to the facts which are wholly within your finding.

As I said to you, the defendant must be proven guilty beyond a reasonable doubt. Now the only question for your consideration is whether the defendant is guilty or innocent of the offense for which he is now on trial.



1 If you are satisfied beyond a reasonable  
2 doubt that he is guilty, it is your plain duty to  
3 convict him. If on the other hand, you have a reason-  
4 able doubt about any particular count or about all  
5 the counts, it is equally your duty to acquit him as  
6 to that count or all the counts as the case may be.  
7

8 Now, the punishment provided by law is a  
9 matter exclusively within the province of the Court.  
10 You cannot and should not allow consideration of  
11 any punishment which may be imposed upon this  
12 defendant if he is found guilty to influence you in  
13 arriving at an impartial verdict as to the guilt or  
14 innocence of the defendant.

15 It is for the Court to determine any mitigating  
16 or any other special circumstances which may require  
17 consideration in the case if the defendant is found  
18 guilty, so you should not be concerned with that  
19 question of punishment at all.

20 Now ladies and gentlemen, all twelve of you  
21 must agree, whichever way you find. In other words,  
22 your verdict must be unanimous. You must take each  
23 count of the indictment separately, and you must  
24 determine the guilt or innocence of the defendant  
25 with respect to each count.

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Now the form of your verdict should be, "We the jury find the defendant Ronald Robinson not guilty on count one," or "We the jury, find the defendant Ronald Robinson guilty on count one."

You must repeat this procedure on each count and you return a verdict of guilty or not guilty on each count with respect to this defendant.

If you wish any testimony of any witness to be read to you, or if you have any further questions, please send in a note to the marshal who will be standing right outside the door, who will relay your request to me.

Now, jury service is not always pleasant, and it is rarely convenient. But jury service is one of the keystones of our system of American justice and therefore forms the basis of democracy. I need, ladies and gentlemen, it should be viewed by the jurors as an opportunity to serve a democratic form of government and to serve the interest of justice. There should be no reluctance on the part of anyone to serve as a juror because our system is really the basis of justice in our country.

I want to thank each and every one of you for your devotion as citizens to this important task as



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2 jurors. May you, acting in accordance with the  
3 evidence and the law, by your verdict, declare  
4 the truth and proclaim the cause of righteousness  
5 and justice in this case.

6 If you desire to examine any or all of the  
7 exhibits they will be delivered upon request. If  
8 after you retire there is a question on a point of  
9 law arising in the case or of any part of the testi-  
10 mony, that you want clarified, you should ask to  
11 be returned to the courtroom for further instruction.

12 At this point I will take a five minute  
13 recess in order that I may hear applications to be  
14 made by counsel.

15 It will not be long. I guarantee you. I  
16 request of you, in the meantime, do not consider  
17 this case until you're brought back at the end of a  
18 short recess. Don't discuss the case at all until  
19 you're brought back.

20 At this point I think I must excuse the last  
21 alternate. You are our insurance policy against  
22 illness or absence of any of these other jurors.  
23 I want to thank you very much. We will call you  
24 back in five minutes.

25 Wait a minute, maybe not.

6:40 PM

(The following occurred at the side bar.)

THE COURT: Do you have any objection?

MR. COIRO: I have no exceptions or

requests, Judge.

THE COURT: What do you have?

MR. MARKS: I have one, Judge.

I would simply point out, your Honor, you

made reference to the welfare checks and we intro-

duced them as similar transactions and also to the

treasury checks that were introduced this morning.

I simply point out to your Honor you didn't

make reference to the three additional ones which

were introduced last week as similar acts.

THE COURT: What was introduced?

MR. COIRO: I think he's pointing out they

have been introduced and they are not part of the

indictment.

THE COURT: What are the three? Do you

know which three?

MR. MARKS: I could get the names.

THE COURT: Were they deposited?

MR. MARKS: In the National Bank. There

are three additional treasury checks.

(Conclusion of side bar.)



(Following occurred in open court.)

THE COURT: I referred, ladies and gentlemen, in the course of my charge to you about similar acts which I said were not covered by the indictment, evidence which couldn't cover it before the defendant could not be guilty, I did include all the similar transactions. There were three other treasury checks that were not given in the indictment that were deposited in the New York Boulevard Deli account and in the Marine Midland Bank or the National Bank of North America.

MR. MARKS: I believe it's both, your Honor.

THE COURT: Both accounts.

Now, you can consider those in connection with the intent or knowledge of the defendant, but that is all. They are in the same category as the similar transactions that I referred to you.

Thank you very much. You may proceed. You do not have to come back and there will be no five minute recess. You may proceed immediately to deliberate on the matter.

First we will swear the marshals in.

(Whereupon, two marshals were sworn to keep the jury.)

CERTIFICATE OF SERVICE

July 22, 1976

I certify that a copy of this brief and appendix  
has been mailed to the United States Attorney for the  
Eastern District of New York.

David P. Hall